

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Rafael Ballesteros,

Petitioner,

v.

Civil No. 13-1341 (JNE/SER)
ORDER

Tom Roy, Commissioner of Corrections,

Respondent.

Petitioner sought relief under 28 U.S.C. § 2254 (2012). He claimed that his guilty plea to third-degree criminal sexual conduct was involuntary and unintelligent because he is illiterate, he has a limited understanding of the English language, and his attorney did not fully explain “what pleading guilty would entail or what the punishment would be.” In a Report and Recommendation dated May 2, 2014, the Honorable Steven E. Rau, United States Magistrate Judge, recommended that the petition be denied without an evidentiary hearing, that Petitioner’s request for appointment of counsel be denied, that the action be dismissed, and that a certificate of appealability be denied. Petitioner submitted responses dated May 11, 2014. Respondent did not respond. The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). Based on that review, the Court adopts the Report and Recommendation [Docket No. 15]. Therefore, IT IS ORDERED THAT:

1. Petitioner’s Amended Petition for Writ of Habeas Corpus [Docket No. 5] is DENIED.
2. Petitioner’s request for an evidentiary hearing is DENIED.
3. Petitioner’s request for appointment of counsel is DENIED.

4. This action is DISMISSED.
5. A certificate of appealability is DENIED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 29, 2014

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge